

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

VLSI TECHNOLOGY LLC,
Plaintiff,
v.
INTEL CORP.,
Defendant.

Case No. 17-cv-05671 BLF (NC)

ORDER ON DISCOVERY BRIEFS AT
ECF 101, 103, AND 104

On June 20 I held a hearing on two discovery issues in this patent infringement case. By way of brief background, there are eight patents asserted in this case, and six of the eight are generically referred to as “circuit” patents. As to the issues presented in ECF 103 and 104, the parties agreed to continue their meet and confer process. By June 29, they must file a joint discovery status update, reporting whether they have resolved the disputed issues, and if not, what disputes and proposed solutions remain. The Court will schedule a further hearing if one is needed.

The central issue presented in ECF 101 is the sufficiency of plaintiff’s infringement contentions under Patent Local Rule 3-1. Intel’s production of documents under Patent Local Rule 3-4 springs from the framing of the patent claims made by VLSI. The purpose behind Rule 3-1 is to require a plaintiff to crystallize its theories of the case early in the litigation and to adhere to those theories once disclosed.

As a preliminary legal question, VLSI asserts that Intel is requiring it to “prove its infringement case” before producing documents. Intel disagrees. The Patent Local Rules do not require the patent holder to prove its claims at the outset. Rather, the purpose of the infringement contentions and the Rule 3-1(c) charts is to give reasonable notice.

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1 The more pointed question is whether in VLSI's claim charts it has sufficiently
2 identified and charted "representative products." As Intel argues, a plaintiff may chart a
3 representative product if it articulates "how the accused products share the same, or
4 substantially the same infringing" qualities. *Tech. Props. Ltd. LLC v. Samsung Elecs. Co.*,
5 Case No. 12-cv-03877 VC (PSG), 114 F. Supp. 3d 842, 845 (N.D. Cal. 2015). The Court
6 finds here that VLSI has not sufficiently explained how the products that it has charted are
7 representative of other Intel product families. *See Bender v. Freescale Semiconductor,*
8 *Inc.*, Case No. 09-1156 PJH (MEJ), 2010 WL 1689465, at *3 (N.D. Cal. Apr. 26, 2010).
9 This deficiency, however, is potentially curable. VLSI is granted leave to August 6, 2018,
10 to serve amended infringement contentions and a Rule 3-1(c) chart, consistent with this
11 order.

12 **IT IS SO ORDERED.**

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14 Dated: June 21, 2018

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NATHANAEL M. COUSINS
United States Magistrate Judge